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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,979	05/31/2002	Pierre Dournel	S-99/37	4774

7590

05/11/2004

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EXAMINER

KUHNS, ALLAN R

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,979

Applicant(s)

DOURNEL, PIERRE

Examiner

Allan Kuhns

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>31102</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. Claims 28 and 30-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite since the significance of "10%" in each claim is unclear. Clarification is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mason et al. (6,197,233). Mason et al. disclose the claimed process for the manufacture of a polystyrene closed-cell foam (column 9, lines 56-60) employing a blowing agent comprising 1,1-difluoroethane and 1,1,1,2-tetrafluoroethane. Note column 7, lines 23-26. Mason et al. also teach a blowing agent composition additionally including an alcohol, as in claims 18-19, and ethanol or isopropanol, as in claim 20 (column 7, line 28).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 17, 23-24, 26-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al. (6,197,233). Mason et al. at least suggest a composition containing more than 60% of the aforementioned difluoroethane and tetrafluoroethane, as in claim 17 and 23, by stating at column 7, lines 25-26 that the composition may be made up of two or more of the preceding three listed components. Mason et al. also suggest a foam of more than 90% closed cells, as in claims 27 and 29, by stating at column 9, lines 58-59, that a substantially closed cell structure is formed. Mason et al. also teach at column 9, line 63 that superior thermal insulation is produced, and the examiner takes Official Notice that producing insulation in panel form, as in claims 24 and 26, is known.

5. Claims 15-16, 21-22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason et al. as applied to claims 17, 23-24, 26-27 and 29 above, and further in view of EP 0 557 533. For a blowing agent composition comprising 1,1-difluoroethane and 1,1,1,2-tetrafluoroethane (page 3, lines 6-7) for foaming a thermoplastic such as polystyrene, the EP reference teaches that these two constituents may be mixed in amounts within the ranges of claims 15-16 and 21-22. It would have been obvious to one of ordinary skill in the art to prepare the blowing agent combination taught by Mason et al. using the proportions within the range recited by the EP reference since the EP reference teaches or suggests satisfactory results can be achieved with these proportions.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-

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1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns
ALLAN R. KUHN
PRIMARY EXAMINER AV 1732
5-6-04